



July 8, 2024

**BY ECF**

The Honorable Pamela K. Chen  
United States District Judge  
United States District Court, Eastern District  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Securities Exchange Commission v. Xia, et al.* U.S. Dist. Ct., Dkt. No. 21-Civ-5350 (PKC)

Dear Judge Chen,

As Your Honor is aware, we represent Defendants Richard Xia (“Xia”) and Fleet New York Metropolitan Regional Center, LLC (“Fleet Regional Center”) in the above-referenced matter. We respectfully bring Your Honor’s attention to an urgent issue arising from the U.S. Citizenship and Immigration Services’ (“USCIS”) Notice of Intent to Terminate (“NOIT”) issued to Defendant Fleet Regional Center on June 28, 2024 (See Exhibit - Fleet I-956 Notice of Intent to Terminate 06.28.2024). The underlying issue was also brought up by Defendants in Defendants’ recent submissions.

The NOIT indicates USCIS’s intention to terminate Fleet Regional Center’s designation under the EB-5 Program pursuant to INA 203(b)(5)(J)(iv)(II). This action is due to the failure to pay the required EB-5 Integrity Fund fee within 90 days of its due date. We respectfully submit that this failure is directly attributable to the Monitor’s negligence, as thoroughly detailed in Defendants’ recent submissions (Dkt. No. 442, at § 2; Dkt. No. 449, at § 2(A)(iv)).

**1. Profound Consequences for EB-5 Investors**

The consequences of the Monitor’s failure to pay the integrity fee are devastating, and the USCIS’s intention to terminate Fleet’s designation further exacerbates the situation. Should Fleet’s reapplication fail, and the regional center be terminated, nearly 400 EB-5 investors will lose their conditional permanent residence status immediately.

Many of these investors are in the process of applying for their permanent residency (“green card”) petitions and will face undue uncertainty. This jeopardizes not only their immigration status but also their long-held aspirations of building a life in the United States. The

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termination will devastate their American dream and result in significant personal and financial hardship for these individuals and their families.

## **2. Request for Court Intervention**

Given the urgency of this matter and the recent settlement progress, maintaining Fleet Regional Center's status by USCIS is critical. We will promptly respond to the USCIS notice, demonstrating Defendants' prior attempts to pay, willingness to pay the integrity fees, explaining the reasons for non-payment, emphasizing the substantial and irreparable harm that will result, and highlighting the significance of the pending settlement.

While we aim to resolve this issue through USCIS, we respectfully request that Your Honor consider the profound impact on the EB-5 investors who depend on Fleet's continued operation for their green card status. The urgency and potential consequences of this matter are immense and cannot be overstated.

In light of these considerations and the rapidly approaching July 31st NOIT deadline, we request the Court's intervention to prevent severe ramifications for the EB-5 investors.

We kindly request that the Court enter an Order permitting Defendants to make Integrity Fee payment to the USCIS at this time. This Order will permit Defendants to respond to the Notice of Cancellation by noting there is a Federal Court Order approving of the payment at this time. This would prevent further detriment to the EB-5 investors and ensure their opportunity to obtain permanent residency.

We believe there is no prejudice in granting Fleet, a non-fault party in this NOIT that diligently urged the Monitor to approve the payment through counsel as early as three weeks before the deadline, a second chance to pay the integrity fees, thereby providing the EB-5 investors a vital opportunity to obtain their green cards. We have also reached out to Global Law Group, the immigration counsel, and the SEC regarding this situation and will update the Court with follow-up submissions.

We thank the Court's prompt attention to this urgent matter and Your Honor's consideration of our request for intervention.

Respectfully Submitted,

*Adam Ford*

Adam C. Ford

cc: all counsel of record (by ECF)